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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No.: Q67628

Hiroshi TOYAMA

Appln. No.: 10/003,695

Group Art Unit: 1756

Confirmation No.: 2536

Examiner: Mark A. CHAPMAN

Filed: December 6, 2001

For: TONER AND IMAGE FORMING
APPARATUS USING THE SAME

NOTICE OF APPEAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the final
Office Action dated August 22, 2003.

A check for the statutory fee of \$330.00 is attached. The USPTO is directed and
authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to
Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A
duplicate copy of this sheet is enclosed.

02/26/2004 CNGUYEN 00000046 10003695

01 FC:1401 330.00 OP

Adjustment dates: 04/02/2004 SDIRETA1
02/26/2004 CNGUYEN 00000046 10003695
01 FC:1401 -330.00 DP

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Respectfully submitted,

Daniel V. Williams
Registration No. 45,221

Date: February 23, 2004

Reply Ref: 04/02/2004 SDIRETA1 0014125400
DHH:174860 Name/Number:10003695
FC: 3204 \$330.00 CR



STATUS AND ENTRY
BRANCH

PATENT APPLICATION

THE UNITED STATES PATENT AND TRADEMARK OFFICE
MAR 25 AM 9:50

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Group Art Unit: 1756

Examiner: Mark A. CHAPMAN

REQUEST FOR REFUND

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22315-3-1450

Sir:

Applicant respectfully requests a refund of \$330.00 to Deposit Account 19-4880 (\$330.00 - Fee Code 1401 - Notice of Appeal) for the following reasons.

1. A response to the Final Office Action dated August 22, 2003, was filed on December 22, 2003.
2. During a telephone call on February 12, 2004, the Examiner indicated that the Amendment filed December 22, 2003, had not yet reached him.
3. During another telephone call on February 19, 2004, the Examiner indicated that he had just recently received the Amendment filed on December 22, 2003 (59 days later).
4. An Advisory Action was mailed on February 20, 2004 (60 days later). February 20, 2004, fell on a Friday. The last day to file a paper in response to the Advisory Action

Request for Refund
USSN 10/003,695

STATUS AND ENTITY
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2004 MAR 25 AM 9: 50

was February 22, 2004. February 22, 2004, fell on a Sunday, allowing for a paper to be timely filed on February 23, 2004.

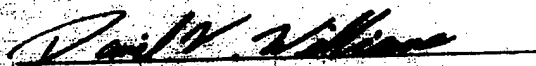
5. The Advisory Action was received in the office of the undersigned attorney on February 23, 2004, which was the very last day for Applicant to file a response.
6. A Notice of Appeal (\$330.00) and extension fee of \$840.00 (\$950.00 minus \$110.00 that was paid on December 22, 2003) were required to be filed to keep the case from being abandoned.

Because the Advisory Action was not received until the last day for filing a response, there was insufficient time to properly review the same and determine an appropriate course of action, i.e., file an RCE. If the PTO had considered the response of December 22, 2003, at any time before the last day to respond, Applicant would have had sufficient time to respond to the Advisory Action by, at most, paying the three-month extension fee, accompanied by an RCE and the appropriate fee. Therefore, the Notice of Appeal would have been unnecessary.

It is believed that under these circumstances, it is inappropriate to require Applicant to incur the \$330.00 cost of filing the Notice of Appeal on February 23, 2004.

Accordingly, a credit of the \$330.00 USPTO fee for the Notice of Appeal to our Deposit Account No. 19-4880 is respectfully requested. A duplicate copy of this paper is enclosed for accounting purposes.

Respectfully submitted,


Daniel V. Williams
Registration No. 45,221

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: March 22, 2004